

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1513 of 2023

Arising Out of PS. Case No.-55 Year-2017 Thana- SAKATPUR District- Darbhanga

1. BALA SINGH S/O LATE SRI KAILU SINGH Resident of Village- House No- 818-5 Gali- 5, Patel Nagar, Gurgaon, Tehsil, Surgaon, District- Gurgaon, Hariyana, Permanent Address- Resident of Village- Kaithwar, P.S.- Sakatpur, District- Darbhanga.
2. SMT. JHALA DEVI @ REKHA DEVI @ BALA DEVI W/O BALA SINGH Resident of Village- House No- 818-5 Gali- 5, Patel Nagar, Gurgaon, Tehsil, Surgaon, District- Gurgaon, Hariyana, Permanent Address- Resident of Village- Kaithwar, P.S.- Sakatpur, District- Darbhanga.
3. ARJUN KUMAR @ ARJUN SINGH S/O BALA SINGH Resident of Village- House No- 818-5 Gali- 5, Patel Nagar, Gurgaon, Tehsil, Surgaon, District- Gurgaon, Hariyana, Permanent Address- Resident of Village- Kaithwar, P.S.- Sakatpur, District- Darbhanga.
4. ARUN KUMAR @ ARUN SINGH @ KARAN SINGH S/O BALA SINGH Resident of Village- House No- 818-5 Gali- 5, Patel Nagar, Gurgaon, Tehsil, Surgaon, District- Gurgaon, Hariyana, Permanent Address- Resident of Village- Kaithwar, P.S.- Sakatpur, District- Darbhanga.
5. ASHOK @ ASHOK SINGH S/O BALA SINGH Resident of Village- House No- 818-5 Gali- 5, Patel Nagar, Gurgaon, Tehsil, Surgaon, District- Gurgaon, Hariyana, Permanent Address- Resident of Village- Kaithwar, P.S.- Sakatpur, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Kunti Devi W/O Arun Singh @ Karan Singh @ Arun Kumar Resident Of Village- Kaithwar, P.S.- Sakatpur, District- Darbhanga.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mrs. Kumari Chandna, Advocate
For the O.P. No. 2	:	Mr. Nilendu Kumar Choudhary, Advocate
For the Opposite Party/s	:	Mr. Vinod Shanker Modi, APP

CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL ORDER

6 24-07-2025 Heard learned counsel for the petitioner, learned
counsel for the O.P. No. 2 and learned APP for the State.

2. The instant application has been filed for quashing the



cognizance order dated 24.09.2019 passed by the learned A.C.J.M.-4, Darbhanga, whereby cognizance has been taken against the petitioners punishable under sections 323, 504, 498(A), 494 and 506/34 of the I.P.C. and Section 3/4 of the D.P. Act arising out of Sakatpur P.S. Case no. 55/2017 dated 20.08.2017.

3. The prosecution story in short is that the marriage of the victim informant was solemnized on 17.06.2013 with Arun Singh @ Karan Singh (petitioner no. 4) and after marriage all the accused persons started demanding Rs. 5 lakh by way of dowry and on non-fulfillment, they continuously tortured her. She stayed in her sasural for only 10 days and thereafter she left for her naihar after bidai by the petitioners. Thereafter, the matter was pacified with the help of the well wishers from their village. It is further alleged that in the year 2017, on the occasion of the Holi festival, all petitioners came to their village, Kaithawar; in the meantime, on the night of Holi, her father-in-law (Petitioner No. 1) attempted to outrage her modesty. It is further alleged that her husband (Petitioner no. 4) solemnized a second marriage with another lady, Mala Kumari.

4. Learned counsel for the petitioners submits that petitioner no. 1 is the father-in-law, petitioner no. 2 is the



mother-in-law, petitioner no. 4 is the husband, petitioner no. 3 is the Bhaipur, and petitioner no. 5 is the own daughter of the informant, Kunti Devi. They have falsely been implicated in the present case due to a personal grudge by the informant. Learned counsel has further submitted that from perusal of the F.I.R., it is evident that no time has been mentioned in the said F.I.R. regarding the occurrence by the informant and only a concocted story against the petitioners has been made. He has submitted that after investigation of the case, the I.O. has erroneously found the case true against all the petitioners including her husband, and submitted the charge sheet under Sections 323, 504, 498(A), 494, 354(B), 506, and 34 of the I.P.C. and 3/4 of the D.P. Act against the petitioners. Further, the learned A.C.J.M.-4, Darbhanga, after perusal of the case diary as well as the charge sheet, prima facie found the case under Sections 325, 504, 498(A), 494, and 506/34 of the I.P.C. and Section 3/4 of the D.P. Act against the petitioners and accordingly, cognizance was taken under the above-noted sections against the petitioners on 24.09.2018 without considering the facts and circumstances of the case of the petitioners in proper perspective, as such, the cognizance order is illegal, bad, and fit to be set aside on the basis of the vague allegation alleged by the informant against



the petitioners. Learned counsel has next submitted that as per the allegations in the F.I.R., her husband was demanding Rs. 5 lacs by way of dowry from her and the in-laws were supporting him but no evidence was produced by the informant or the I.O. by way of the case diary against the petitioners. The specific allegation of demand of dowry from the informant is against the husband (petitioner no. 4), who has solemnized his second marriage with another lady without getting a divorce from the informant, so he is responsible for this act. Except the same, there is no material on record against the petitioners to connect them with this case. The petitioners have no concern with this case, except petitioner no. 4 (husband of the informant). Learned counsel has submitted that the F.I.R. has been filed by the informant with a view to harass and humiliate the petitioners without any valid evidence. The entire allegation alleged in the said F.I.R. by the informant is false, fabricated, and concocted against the petitioners.

5. Learned counsel for the O.P. No. 2 and the learned APP for the State vehemently opposed the present application stating that from perusal of the FIR there is allegations upon the petitioners and as such prima facie case is being made out and the present application, for quashing of the order taking



cognizance is misconceived.

6. The learned counsel for the O.P. No. 2 has pointed out and has forwarded the copy of the anticipatory bail application filed by the petitioners No. 1, 2, 3 and 5 before the learned Court below being A.B.P No. 816 of 2022 whereby they were granted anticipatory bail by order dated 28.05.2022 and were directed to surrender within six weeks. The learned counsel for the O.P. No. 2 further states that the said petitioners did not surrender within the prescribed period and as such a criminal miscellaneous application being Cr. Misc. No. 98 of 2023 was filed before the learned Court below for modification of the order dated 28.05.2022 praying therein for extension of time for enabling them to surrender, however, the said application was dismissed by the learned Court below and thereafter the petitioners no. 1, 2, 3, 4 and 5 absconded. The learned counsel for the O.P. No. 2 has submitted that the petitioners had not surrendered in pursuance to the order granting them anticipatory bail and thereafter they are pursuing the present quashing application and thus, the petitioners having not availed the statutory remedy, should not be allowed to use the present application in the garb of seeking bail. The learned counsel for the O.P. No. 2 has pointed out that the present application is fit



to be dismissed on this count alone. The learned counsel for the O.P. No. 2 has stated that there is a prima facie case being made out against the petitioners on the basis of the investigation upon which subsequently charge sheet has been submitted.

7. This Court has considered the rival submissions made by the parties and it is found that from bare reading of the FIR it would be evident that prima facie case being made out against the petitioners and the I.O has found the case true against all the petitioners including her husband and submitted the charge sheet under Sections 323, 504, 594(A), 494, 354(B) 506, 34 IPC and also $\frac{3}{4}$ of the D.P. Act against the petitioners. The contents of the FIR as well as the materials collected by the police during investigation suggests that there is specific allegation against the father-in-law of trying to outrage the modesty of the O.P. No. 2 while specific allegation is against the mother-in-law of demanding dowry from the O.P. No. 2 and there are allegations against the other accused persons including the husband of torture both mental and physical specially the fact that the petitioner no. 4 has married another women which goes to show that the O.P. No. 2 has been subjected to torture. There is also specific averment with regard to the other petitioners that they had also been demanding the dowry and also tortured the O.P.



No. 2. The FIR also suggests that the O.P. No. 2 had been taken back to her parents' house from Delhi and thereafter they did not come back. From perusal of the FIR, it is also evident that the O.P. No. 2 was taken by the husband in October, 2016 after pressure was being given by the Panchayat. However, the O.P. No. 2 was left at the village Kaithwar at Darbhanga, and rest of her in-laws went to Delhi leaving her behind to stay with the grand mother of her husband. This Court also takes cognizance of the conduct of the petitioners specially petitioners No. 1, 2, 3 and 5 who had approached the Court below earlier for grant of anticipatory bail and were also granted the same by the learned Court below, however, they chose not to surrender and furnish bail bonds and instead contested the present application.

8. From the discussions made above it would be evident that not only there is serious allegations leveled against the petitioners their conduct such as evasion and not cooperating with the investigation or even ignoring bail conditions speaks about their regard for the judicial system. This Court cannot ignore the fact that the petitioners, barring petitioner no. 4 despite being granted anticipatory bail did not turn up to furnish bail bonds within time and thereafter they had filed a modification application which was rejected and despite such



rejection, till date the petitioners are evading appearance thereby delaying the trial of the case which was lodged in the year 2017.

9. This Court also takes into account the fact that even before the mediation centre the matter was not settled and the mediation had failed as per the report submitted by the mediator.

10. In view of the aforesaid and taking into account that no case has been made out by the petitioners to entertain the present application, the same is dismissed.

(Sourendra Pandey, J)

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